

The Zoning Ordinance for the Town of Fountain Hills

Chapter 5

GENERAL PROVISIONS

Sections:

- 5.01 Application.**
- 5.02 Use Restrictions.**
- 5.03 Redividing of Recorded Lots.**
- 5.04 Street Dedication Requirements.**
- 5.05 Site Unsuitability.**
- 5.06 Yard, Lot, and Area Requirements.**
- 5.07 Building Height Requirements.**
- 5.08 Height Limitations on Corner Lots.**
- 5.09 Walls and Fences.**
- 5.10 [RESERVED]**
- 5.11 Land Disturbance Standards**
- 5.12 Outdoor Storage and Junk Automobiles.**
- 5.13 Storage and Parking of Mobile Homes, Boats, Aircraft, Truck Campers, Camping Trailers, Travel Trailers, and Other Trailers.**
- 5.14 Home Occupations.**
- 5.15 Animals and Pets.**
- 5.16 Temporary Carnivals, Circuses, Revivals, Rodeos, Swap Meets, Outdoor Retail Sales and Similar Activities.**
- 5.17 Public Service Facilities.**
- 5.18 Trash Enclosures.**
- 5.19 Performance Standards.**
- 5.20 Recreational Vehicle Parks.**
- 5.21 Temporary Construction Equipment and Storage Yards for Construction Activity in Public Rights-of-Way and Easements**

Section 5.01 Application.

Except as hereinafter provided, no building, structure, or premises shall be used and no building or structure or part thereof shall be constructed, altered, repaired, improved, moved, removed, erected, demolished, or materially altered except in conformity with these provisions and the provisions of the zone in which it is located. Any use that is not specifically allowed or not analogous is hereby declared to be prohibited.

Section 5.02 Use Restrictions.

- A. Permitted Uses.** Those uses listed as permitted uses shall be allowed to be established within any zoning district in which they are listed, subject to the specific requirements of this ordinance. All other uses shall be prohibited except as otherwise provided in this ordinance.
- B. Special Uses.** Those uses listed as special uses shall require a special use permit in order to be established within the zoning district in which they are listed, and shall be subject to all conditions and requirements imposed by the Town Council in connection

The Zoning Ordinance for the Town of Fountain Hills

with the special use permit.

- C. Accessory Uses.** A use which is incidental, related, appropriate, and clearly subordinate to the main use of the lot or building, and which does not alter the principal use of the lot or building, shall be allowed to be established within any given zoning district, but may not be constructed more than six (6) months prior to the erection of the main building.
- D. Unspecified Uses.** Whenever a use is proposed which is not listed as a permitted or special use in any zoning district, the Community Development Director may make such a determination concerning its applicability. The Planning and Zoning Commission may be consulted to determine the appropriate zoning classification of such use. In making their determination, the Planning and Zoning Commission shall consider similar uses which are listed in the Code.

Section 5.03 Redividing of Recorded Lots.

- A.** No lot may be divided to create a lot not in conformance with these regulations. No lot shall be divided or combined in any manner other than through subdivision procedures as specified by the subdivision regulations of the Town of Fountain Hills. *³⁷
- B.** In addition to meeting the minimum lot width and lot area regulations of Section 10.09 of this ordinance, any proposed single-family zoned lot shall have a lot width and lot size that is consistent with the lot widths and lot sizes of existing platted lots in the immediate vicinity. Lot width consistency shall mean that no lot shall be created having less than ninety (90) percent of the lot width of the average of all platted lots in the same zoning district that are located within 800 feet of the proposed lot. Lot size consistency shall mean that no lot shall be created having less than ninety (90) percent of the lot size of the average of all platted lots in the same zoning district that are located within 800 feet of the proposed lot.

Section 5.04 Street Dedication Requirements.

- A.** All lots shall abut a dedicated and accepted public street connecting to the publicly dedicated and accepted street system. Through the Planned Unit Development process as described in Section 2.05 of this ordinance, the Town Council may allow private streets.
- B.** Except for lots abutting private streets which have been specifically permitted in Planned Unit Developments, a building permit shall not be issued for a recorded lot, which does not abut a dedicated and accepted public street or an undedicated portion of a partially dedicated street and the abutting street does not connect the publicly dedicated and accepted street system.
- C.** Prior to the acceptance by the Town of the dedication of a public street, such street shall be designed, graded, and paved in accordance with the provisions of all applicable street standards of the Town of Fountain Hills.

The Zoning Ordinance for the Town of Fountain Hills

Section 5.05 Site Unsuitability.

No land shall be used or structure erected where the land is held by the Planning and Zoning Commission to be unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, low percolation rate or bearing strength, erosion susceptibility, or any other features likely to be harmful to the health, safety and general welfare of the community. The Planning and Zoning Commission, in applying the provisions of this section, shall state in writing the particular facts upon which its conclusions are based. The applicant shall have the right to present evidence contesting such determination to the Council if (s) he so desires, whereupon the Council may affirm, modify or withdraw the determination of the unsuitability. *²⁷

Section 5.06 Yard, Lot, and Area Requirements.

A. Hammerhead Cul-de-Sacs.

Front or street side yards that abut the hammerhead right-of-way on lots that are located on the outlet side of and immediately abutting the hammerhead terminus shall be calculated by disregarding the perpendicular portion of the hammerhead if all of the following criteria are met:

1. The lot immediately adjacent to the subject lot and at the end of the hammerhead terminus is developed, and;
2. The Town Engineer has determined that safe vehicular ingress and egress is maintained for the abutting developed lot due to any encroachment, such as a building, wall or fence, into the front or street side yard of the subject lot.

B. Application.

No building shall be erected, nor shall any existing buildings be altered, enlarged, moved, or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the yard, lot, area and building location regulations hereinafter designated for the zone in which such building or open space is located, except as otherwise specifically provided. *³²

C. Yards.

Except as provided herein, every part of a required yard shall be open to the sky and unobstructed. Trees, shrubbery, etc. and accessory structures as allowed in this ordinance, shall not be considered obstructions. No yard or other open space provided about any building for the purpose of complying with the provisions of these restrictions shall be considered as a yard or open space for any other building and/or yard, nor shall any other open space on one lot be considered as a yard or open space for a building on any other lot. A flagpole as permitted in Section 5.07.B.7 may be located in a required front or street side yard. *¹

D. Projections Over and Into Required Yards.

1. Awnings, window-type refrigeration units, suspended or roof evaporative coolers, and similar features, may project not more than five (5) feet over any required

The Zoning Ordinance for the Town of Fountain Hills

yard, provided that they shall be no closer than three (3) feet from any lot line.

2. Architectural details such as canopies, cornices, and eaves may project not more than two (2) feet over any required yard, provided that they shall be no closer than two (2) feet from any lot line.
3. Sills, leaders, belt courses and similar ornamental features may project not more than six (6) inches over or into any required yard.

E. Patios and Steps.

Unroofed terraces, patios, steps or similar features not over thirty (30) inches in height above grade, may project into any required yard, provided that they shall be no closer than two (2) feet from any lot line. ^{*30, *38}

F. Swimming Pools.

Any swimming pool in any zone shall not be located in the required front or street side yard and shall be at least three (3) feet from any rear and interior side lot lines, and shall maintain side yard setbacks from the street side lot lines as required for the main structure in that zone.

G. Small Accessory Buildings (Detached.)

Any detached accessory building 120 square feet or less in size in any zone shall not be located in the required front or street side yard, shall be at least six (6) feet from the main structure, shall be at least three (3) feet from any rear and interior side lot lines, shall be located behind the front line of the primary structure on the front, and behind the street side of the primary structure on the street side of a corner lot, and shall not exceed twelve (12) feet in height. ^{*26, *30}

H. Large Accessory Buildings (Detached).

Any detached accessory building greater than 120 square feet in size, shall not be located in any building setback, shall be at least six (6) feet from the main structure, shall be located behind the front line of the primary structure on the front, and behind the street side of the primary structure on the street side of a corner lot, and shall not exceed fifteen (15) feet in height. See diagram after **I. Solar Units**.

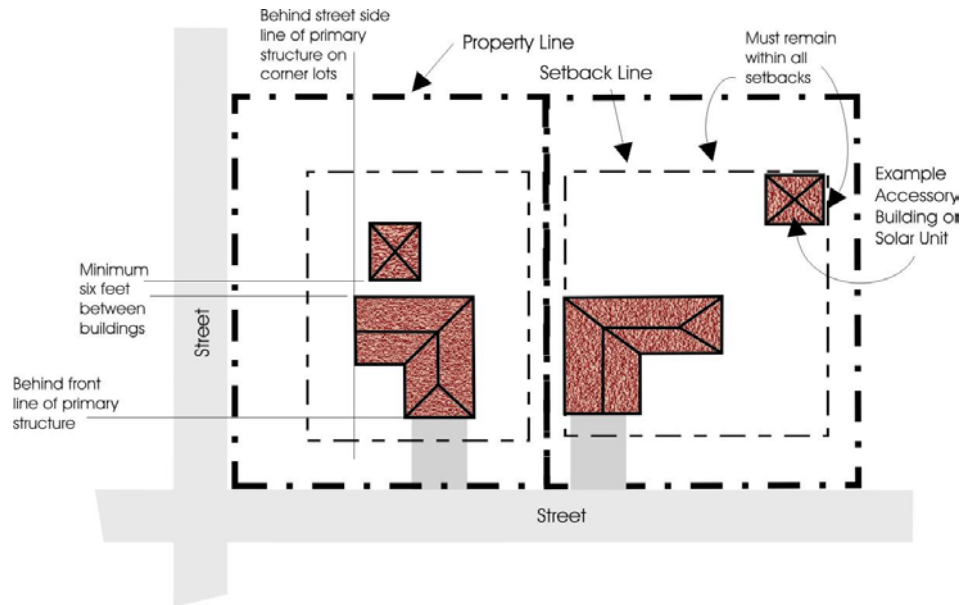
An application for a Large Accessory Building (Detached,) that does not meet the above requirements, may be appealed to the Town Council by Special Use Permit.

I. Solar Units.

Solar heating, cooling units, solar greenhouses and associated apparatus shall be located behind the front line of the primary structure on the front, and behind the street side of the primary structure on the street side of a corner lot, shall not cover more than thirty (30) percent of any side or rear yard, shall be at least three (3) feet from any rear and side lot lines, shall be at least six (6) feet from any other structure, and shall not exceed twelve (12) feet in height. With the exception of the solar panels, any solar heating or cooling unit shall be screened from public view. See diagram below.

The Zoning Ordinance for the Town of Fountain Hills

An application for a Solar Unit that does not meet the above requirements may be appealed to the Town Council by Special Use Permit.



J. Service Station Pumps.

No automobile service station pump shall be located closer than twenty (20) feet from a street property line. *²

Section 5.07 Building Height Requirements.

A. Application.

No building shall be erected, reconstructed, or structurally altered to exceed in height the limit hereinafter designated for the zone in which such building is located, except as otherwise specifically provided. *³⁰

B. Exceptions.

Height regulations established elsewhere in this ordinance shall not apply:

1. In any district, to church spires, belfries, cupolas and domes not for human occupancy; water tanks; provided that such structure shall be so located and constructed that if it should collapse, its reclining length would still be contained on the property on which it was constructed.
2. In any non-residential district, to noncommercial radio or television antennas. *³²
3. In industrial districts, to conveyors or similar structures wherein the industrial

The Zoning Ordinance for the Town of Fountain Hills

process involved customarily requires a height greater than otherwise permitted, provided that such structure shall be so located that if it should collapse, its reclining length would still be contained on the property on which it was constructed. *³⁰

4. In any district, to solar heating or cooling apparatus, the plans of which have been approved by the Zoning Administrator. *¹⁹
5. Chimneys in residential zoning districts may be two feet above the roof line of the residential structure, even if the roof line is at the maximum building height. However, there shall be no height exception allowed for a chimney if there is a two foot or greater vertical clearance within a ten (10) foot radius of the chimney. *²¹
6. Wireless communications towers and antennas as approved in accordance with the requirements and provisions stated in Chapter 17 of this ordinance. *³²
7. In any zoning district, one flagpole per lot flying the American Flag, Arizona State Flag and/or the Town of Fountain Hills Flag so located and constructed that if it should collapse, its reclining length would be contained on the property on which it was constructed. In any commercial or industrial zoning district, one flagpole flying the American Flag, Arizona State Flag and/or the Town of Fountain Hills Flag may be located per lot in a required front yard or street side yard setback as long as the flagpole does not exceed the building height permitted in the underlying zoning district. *³²

C. Residential Accessory Buildings.

No building which is accessory to any residential building shall be erected to a height greater than one (1) story or fifteen (15) feet except as otherwise may be permitted by a particular zone regulation.

Section 5.08 Height Limitations on Corner Lots.

Within a triangle formed by the street front and side lot lines and a line connecting these lot lines at points measured along these lot lines a distance of twenty-five (25) feet from their intersection, all fixtures, walls, fences, construction, hedges, shrubbery and other planting shall be limited to a height not more than three (3) feet above the elevation of the street line level at the same intersecting streets. Within the said triangle, and in cases where front yards are terraced, the ground elevation of such front yards shall not exceed three (3) feet above the established street line elevation at the said intersecting streets. *³

Section 5.09 Walls and Fences.

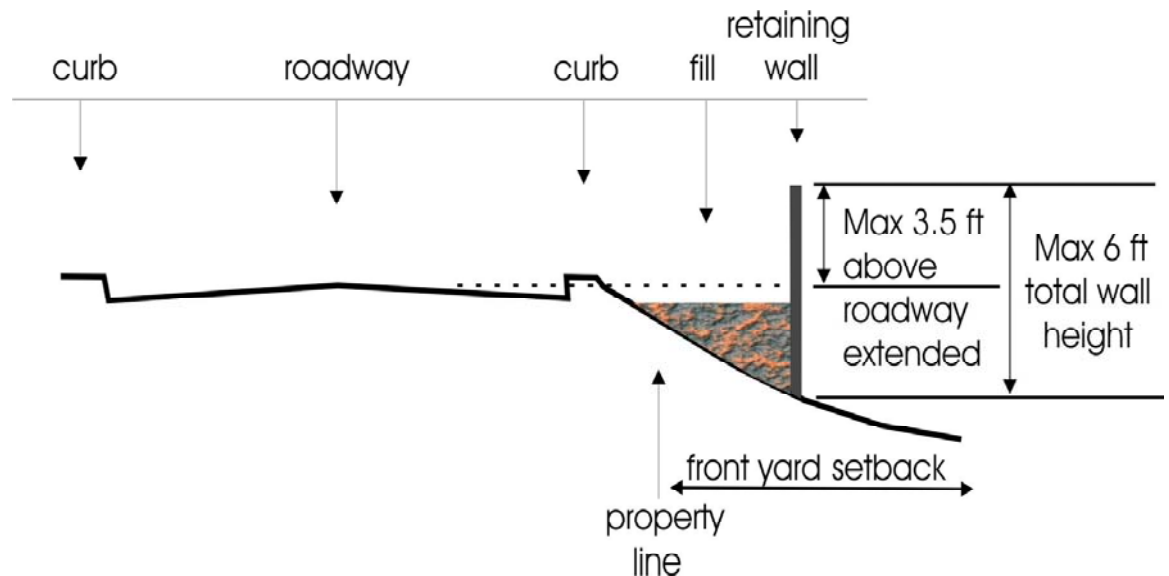
A. Height. *¹⁸

1. Except as otherwise provided, no wall (whether retaining or not), fence or hedge, more than three (3) feet six (6) inches high shall be constructed or maintained nearer to the front or street side property line than the required front or street side building setback line.

The Zoning Ordinance for the Town of Fountain Hills

Retaining walls that lie within the front or street side yard may be allowed to a maximum height of six (6) feet if all of the following three (3) criteria are met:

- a. The retaining wall is on a slope gradient that is lower in elevation than the finished roadway surface.
- b. The retaining wall does not exceed three and one-half (3 ½) feet above an imaginary line created by a horizontal extension of the roadway finished surface.
- c. No vehicular sight lines are obstructed and road “clear zones” are established that are approved by the Town Engineer and meet with approved Traffic Engineering Standards.



Fences or hedges which exceed the above heights may be built around schools and other public or quasi-public institutions when necessary for the safety or restraint of the occupants thereof, within Industrial Zoning Districts, when a special use permit has been secured for such purposes. Except as otherwise provided, no non-retaining wall or fence shall exceed six (6) feet in height. Retaining wall heights and non-retaining walls on top of retaining walls with less than fifty (50) percent openness, shall follow the standards in Section 5.11.E. of this chapter, however in no case shall the non-retaining wall exceed six (6) feet in height. These height regulations shall not apply when fences of greater height are required by the Planning and Zoning Commission or Town Council in order to provide adequate screening as required by this ordinance. Note: Those utility companies which are regulated by the Arizona Corporation Commission may be allowed increased fence heights due to national, state or local standards.

Golf ball fences may be developed by Special Use Permit if all of the following characteristics apply:

The Zoning Ordinance for the Town of Fountain Hills

- a. Golf ball fences may only be developed on lots that directly abut a golf course or driving range, however, they may not be developed within any front or street-side yard setback.
 - b. Golf ball fences should only be developed within 600 feet of the forward-most golf course tee box or driving range position. Golf course fences to protect against errant secondary golf shots may be approved due to unusual site or course layout circumstances.
 - c. Golf ball fences shall be set back from any abutting residential property at a distance not less than the height of the fence. Golf ball fences may be located nearer to such a property line with the prior written consent of the abutting residential property owner.
 - d. The maximum height of a golf ball fence shall not exceed twenty-five (25) feet.
 - e. Pole color must blend in with background features as viewed from neighboring properties to minimize its visibility. Net color shall be black.
 - f. Landscaping should be used where appropriate to obscure the poles from neighboring properties.
2. **Exceptions:** When necessary to meet pool enclosure requirements, the height of a freestanding fence may exceed six (6) feet.
- a. This section shall only apply when all of the following conditions exist:
 - (1) The exempted fence serves as a pool enclosure, and
 - (2) The exempted fence intersects a retaining wall and such retaining wall is perpendicular to the exempted fence, and
 - (3) The intersecting retaining wall exceeds eighteen (18) inches in height.
 - b. If all of the conditions listed in subparagraph (a) above are present, the height of a freestanding fence may exceed six (6) feet by an amount to be determined as follows:
 - (1) The maximum allowable height in excess of six feet shall be equal to the height of the lower side of the intersecting retaining wall plus five (5) feet.
 - (2) The additional fence height as calculated in subparagraph (1) above shall not extend horizontally more than fifty-four (54) inches as measured from the point of intersection with the lower side of the retaining wall.
 - (3) Any fence sections erected in excess of six (6) feet according to

The Zoning Ordinance for the Town of Fountain Hills

this section shall be constructed so there are no horizontal members between the top of the fence section and the bottom of the fence section. A minimum of fifty percent (50%) openness is not required in this fence section.

- B. Arches.** When not located in any required building setback area, an arch in a facade wall may be placed in front of the primary structure at a height not to exceed twelve (12) feet and a width not to exceed ten (10) feet. One arch, not exceeding twelve (12) feet in height and ten (10) feet in width, may be located along the side or the rear of the primary structure if it is not located in the required side (interior or street) and required rear yard setback areas.
- C. Materials and Design.** Fences and walls in all Zoning Districts shall be constructed of material in good repair and be of conventional design.
- D. Swimming Pools.** Enclosures are required for private swimming pools along with incidental installations, such as pumps and filters. Such pool and incidental installations are to be located in other than the required front yard and completely enclosed from adjoining lots by a solid wall or protective fence of not less than five (5) feet in height and provided such pool sets back from all lot lines a distance of not less than three (3) feet. Residential structure walls containing an exterior entry door may be used in meeting the pool enclosure requirement. Any fence/wall used for pool enclosure may not contain any openings that might be used for foothold climbing purposes. Every opening in a required pool fence/wall shall be provided with a minimum five (5) foot high self-closing gate, which shall open outward away from the pool and shall have a self-latching latch or lock in good condition, with the latch/lock placed at least fifty (50) inches above the underlying ground and with the closing device (spring, pneumatic, etc.) at least thirty-six (36) inches above the underlying ground. Any vertical opening or opening at ground level in a pool enclosure fence (e.g. wrought iron) shall be of such size that a spherical object four (4) inches in diameter cannot pass through the openings. Wrought iron or wood barriers or enclosures shall be constructed with at least fifty-four (54) inches between the top surfaces of the horizontal members. All fish ponds and other contained bodies of water, either above or below ground level, with the container being eighteen (18) inches or more in depth and/or wider than eight (8) feet at any point measured on the long axis shall conform to the location and enclosure requirements for swimming pools. Irrigation and storm water retention facilities and the water features in public parks and golf courses are exempt from the fencing requirements of this provision. It is the responsibility of the property owner to ensure that any pool enclosure fence and its appurtenances (e.g., gates, latching devices, locks, etc.) are maintained in safe and good working order.
- E. Tennis courts.** A tennis court may have a tennis court fence that shall not exceed twelve (12) feet in height and shall maintain a minimum of 50% openness. Such fences shall be located no more than ten (10) feet from the edge of the court. Any outdoor lighting shall conform to the standards specified in Chapter 8 of this Ordinance. *²²
- F. Basketball Courts.** A full court basketball court may have a court fence that shall not exceed twelve (12) feet in height and shall maintain a minimum of 50% openness. Such fences shall be located no more than ten (10) feet from the edge of the court. Any outdoor light shall conform to the standards specified in Chapter 8 of this Ordinance.

*²²

The Zoning Ordinance for the Town of Fountain Hills

- G. Day Care Centers and Home Day Care Centers.** Day care centers and home day care centers which have swimming pools, fish ponds and other contained bodies of water, either above or below ground level, with the container being eighteen (18) inches or more in depth and/or wider than eight (8) feet at any point measured on the long axis shall conform to the location and enclosure requirements for swimming pools, must provide a separate enclosure between the day care facility and the body of water. Such barrier shall be a solid wall or protective fence of not less than five (5) feet in height and of a distance of not less than three (3) feet from the pool or the day care facility. The day care facility exterior entry door may not be used in meeting the pool enclosure requirement. Any fence/wall used for pool enclosure may not contain any openings that might be used for foothold climbing purposes. Every opening in a required pool fence/wall shall be provided with a minimum five (5) foot high self-closing gate, which shall open outward away from the pool and shall have a self-latching latch or lock in good condition, with the latch/lock placed at least fifty (50) inches above the underlying ground and with the closing device (spring, pneumatic, etc.) at least thirty-six (36) inches above the underlying ground. Any vertical opening or opening at ground level in a pool enclosure fence (e.g. wrought iron) shall be of such size that a spherical object four (4) inches in diameter cannot pass through the openings. Wrought iron or wood barriers or enclosures shall be constructed with at least fifty-four (54) inches between the top surfaces of the horizontal members.

Section 5.10 [RESERVED]

*¹⁴

Section 5.11 Land Disturbance Standards

- A. Purpose.** The principal purpose of the Land Disturbance Standards is to allow the reasonable use and development of land while promoting the public health, safety, convenience and general welfare of the citizens of the Town of Fountain Hills. These standards are to help maintain the character, identity, and image of Fountain Hills. The primary objectives of the Land Disturbance Standards are: To minimize the possible loss of life and property through the careful regulation of development; to protect watershed, natural waterways; to ensure that all new development is free from adverse drainage conditions; to protect against soil erosion; to minimize the scarring of the natural terrain and preserve the general visual character of graded sites; and to provide for the protection of the existing landscape by encouraging retention of natural topographic features, native vegetation, and wildlife habitat.

To meet these objectives, it is necessary during planning and implementation of grading activities to give consideration to the following: conservation of the natural environmental function of the site; compatibility with the surrounding land; stabilization of hillsides, slopes, or other area subject to erosion or mass movement; and preservation of the natural capacity of drainage courses and protection of natural drainage ways.

B. Grading Standards

1. Grading permits. No person shall cause or permit any clearing or grading on, or to, any site other than soil tests (100 square feet maximum in size) prior to the issuance of a zoning clearance or a clearing or grading permit. Any brushing, clearing, or

The Zoning Ordinance for the Town of Fountain Hills

grading in all zoning districts, on any vacant lots, or on developed lots in non-disturbance areas or Hillside Protection Easements, shall require a grading permit and shall be pre-approved by the Town's Fire Marshal or authorized representative. In no case shall any brushing, clearing, or grading extend further than a defensible space which shall be defined as, and shall be limited to, a band of land measured horizontally up to a maximum of thirty (30) feet from any structure. Any cacti, shrub or plant in the defensible space shall not be removed unless identified as dead by the Fire Marshal. Dead trees in the defensible space shall be removed. Live vegetation beneath trees within the defensible space shall not be removed, but should be maintained at a height that will deter its functioning as a "ladder" for fire to travel from the ground vegetation into the tree crown. Live vegetation within the defensible space shall have all dead material removed and should be thinned and pruned to reduce fire intensity and rate of spread. Owners of vacant lots shall provide a defensible space from an adjoining property owner's structure per written recommendations determined from an on-site inspection from the Fire Marshal or authorized designee. Any clearing for a defensible space that extends into a non-disturbance area or into a Hillside Protection Easement area is prohibited without prior written authorization from the Fire Marshal or authorized designee after an on-site inspection of the area. Any clearing of a vacant lot is prohibited unless the clearing is for a defensible space to an adjoining structure as outlined previously in this subsection 5.11.B.1. Elimination of wildlife habitat for protected species is prohibited. A person found guilty of violating the provisions of this subsection 5.11.B.1 shall be subject to the penalties established in Section 5.11.B.12.b of the Town of Fountain Hills Zoning Ordinance.

2. Grading of Non Single-Family and Non-Duplex Zoned Platted Land. The area permitted to be disturbed on any non-single-family and non-duplex zoned platted land is unlimited on terrain sloping less than fifteen percent (15%). Disturbance on slopes equal to or exceeding fifteen percent (15%) is limited to the percentage equivalent to the "lot coverage percentage" prescribed in the zoning district. *⁷, *¹⁶, *²⁹
3. Grading of Single-Family Residential and Duplex Zoned Platted Land. In all single-family and duplex residential zoning districts the extent of disturbance on platted land where the plat application was made and accepted by the Town or Maricopa County before November 3, 1996 shall be limited to the following: (Lots owned by utility companies which are regulated by the Arizona Corporation Commission are exempt from the lots disturbance limitations of this subsection). *³⁷¹⁵, *¹⁶, *²⁹
 - a. Four (4) times the size of the footprint of the house or building, (including the pad for the house or building). Footprint means that area of the house or building measured from the outside walls (excluding any overhanging portions) which includes indoor uses such as attached garage, carport, utility room, laundry, etc. (including covered patios and breezeways which are an integral part of the roof structure of the house or building). A twenty (20) foot wide band of primary driveway access is excluded from the land disturbance area limitations. If a residual area remains after computing the allowed area of disturbance of a lot or parcel, and any of the following conditions apply, the Community Development Director, or his designee, may allow the property owner to disturb all or a portion of residual area. *²⁸

The Zoning Ordinance for the Town of Fountain Hills

- 1) The residual area of the lot or parcel was previously permitted to be disturbed during subdivision construction.
- 2) There are no significant areas of native vegetation to be preserved.
- 3) There are no rock outcrops or significant topographic features to be preserved.
- 4) All adjacent property owners were permitted to disturb property adjacent to the residual area.

There shall be no waiver of residual area by the Community Development Director, or his designee, which;

- 1) Contains rock outcrops, significant topographical features, significant native vegetation, or;
 - 2) Abut land dedicated in any form as non-disturbance or open space, such as wash parcels, native open space tracts, hillside protection easements, or other non-disturbance areas on privately owned land, etc.
- b. All of the areas which have a slope of less than fifteen percent (15%) and to the percentage of the aggregate area with a slope of fifteen percent (15%) or greater that does not exceed the maximum lot coverage allowance as prescribed in the respective primary zoning district. A twenty (20) foot wide band of primary driveway access is excluded from the land disturbance area limitations. All grading and/or disturbance authorized by this subsection is considered to be cumulative as of September 20, 1991.
4. Grading of All Platted Land, Regardless of the Base Zoning District, that is Located in Plats Where Applications Were Made and Accepted by the Town After November 3, 1996. The extent of disturbance shall be limited to: *¹⁶
- a. When the subdivider has granted a Hillside Protection Easement(s) and/or has donated undisturbed hillside land zoned Open Space Recreational, to the Town of Fountain Hills or to a Town approved land preservation organization to satisfy the hillside protection requirements of Article V of *The Subdivision Ordinance of the Town of Fountain Hills*, all areas outside of the Hillside Protection Easements and/or preservation lands may be disturbed, or;
 - b. When no preservation measures have taken place in the platting process, the disturbance allowance shall be in accordance with the grading limitations of Article V, Section 504.A. of *The Subdivision Ordinance of the Town of Fountain Hills*.
5. Grading of All Unplatted Land, Regardless of the Base Zoning District. The extent of disturbance shall be in accordance with the grading limitations of Article V, Section 504.A. of *The Subdivision Ordinance of the Town of Fountain Hills*. *¹⁶

The Zoning Ordinance for the Town of Fountain Hills

6. Grading for Non-Residential Structures. The limitations in grading area for non-residential structures in residential zoning districts as specified in paragraphs B.2. through B.4., may be waived by the Town Council.
7. Grading for Parks and Golf Courses. The limitations in disturbance as specified in this section (including area of disturbance as well as height and retention of cut and fill) may be waived by the Town Council for the development of a park, golf course, or other recreational development that does not entail a building or buildings as the primary purpose of the development.
8. Grading for Utility Lines. With the exception of power lines capable of carrying 69kv or more of voltage, utility lines shall be located underground. Utilities located in subdivisions platted after November 3, 1996, must be located within allowed disturbance areas.
9. Road Grading. Grading for roads is subject to the cut and fill limitations of this ordinance. These limitations may be waived by the Town Council. *⁹
10. Total Disturbance. All grading and/or disturbance performed subsequent to September 20, 1991, or subdivision improvement grading (whichever date is most recent) is considered to be cumulative under this ordinance.
11. Disturbance Limit Fencing. Prior to the issuance of a building or grading permit, the property owner and the general contractor shall sign a disclosure form, that is prepared by the Community Development Department, acknowledging the regulations of and agreeing to comply with Section 5.11 (B)(11 and 12) of this Ordinance. Prior to the issuance of any building or grading permit and prior to any disturbance activities, a six-foot high imbedded chain-link fence shall be permitted and installed on the disturbance limit line as identified on the approved site plan for the site. The disturbance limit boundary shall be established and staked by an Arizona registered land surveyor. No disturbance limit fencing shall be located outside of the surveyor's staked area. Appropriate warning signs in English and Spanish shall also be posted at least every 100 linear feet on the required fencing. The building official, or his/her designee(s), shall inspect the fence, signage, and surveyor's staking to insure its proper location and construction prior to the issuance of the building/grading permit for the site. Such fencing and signage shall be maintained in place throughout the grading/construction process and shall only be removed after a final inspection or Certificate of Occupancy has been issued by the Town. These regulations may be waived by the Community Development Director if 100% of the lot, on which the construction activity is permitted, has been graded or disturbed as part of an approved subdivision grading permit. *¹⁷, *³⁴, *³⁹
12. Disturbance Buffers.
 - a. It is recommended that all proposed non-disturbance areas or hillside

The Zoning Ordinance for the Town of Fountain Hills

protection easements be located not closer than:

- Eight (8) feet from any building,
- Five (5) feet from the outside face of any retaining wall where the retaining wall is supporting a fill slope,
- One (1) foot from the “day lighted” top of a maximum 1:1 cut slope, the toe of such slope beginning at the bottom of the outside edge of the footing for any retaining wall where the retaining wall is supporting a cut slope,
- Three (3) feet from the outside face of any other wall or fence or the edge of any fill grading, and
- One (1) foot from the edge of any cut grading.
- Ten (10) feet from any sewer lateral, or five feet from the edge of any utility line trench, whichever is greater.

b. If disturbance does take place within a non-disturbance area or within a hillside protection easement, all construction and grading activity on the site shall stop, pursuant to a Town-issued stop work order. The stop work order shall remain effective until the property owner and general contractor, either jointly or severally:

- Provides the Town with a revised site plan prepared by an Arizona-registered land surveyor that accurately depicts the area and size, in square feet, of the disturbance into the non-disturbance area(s) or hillside protection easement areas(s), and
- Provides the Town with revegetation and irrigation plans prepared by an Arizona-registered landscape architect for the non-disturbance or hillside protection easement area(s) disturbed, and
- Causes the non-disturbance area(s) or hillside protection easement area(s) to be revegetated and irrigated according to the submitted and approved revegetation and irrigation plans, and
- Pays to the Town a fee of five dollars (\$5.00) per square foot of disturbance that occurred within the non-disturbance areas or hillside protection easements on the property.

13. Columbaria Disturbance Exemptions By Special Use Permit. The development of columbaria, including any accompanying features such as walkways, may be exempted from the regulations of Section 5.11 (B) Grading Standards, by Special Use Permit if the following conditions exist:

*32

The Zoning Ordinance for the Town of Fountain Hills

- a. The columbaria is an accessory use to a church.
 - b. The columbaria and any accompanying features shall be designed to minimally alter the existing topography and vegetation.
 - c. The columbaria and any accompanying features shall be designed so that any "Natural Features", as defined in Section 103 of *The Subdivision Ordinance for the Town of Fountain Hills*, are not disturbed.
 - d. The building area of the columbaria shall not exceed ten (10) percent of the total building area of the church buildings.
 - e. A landscape plan prepared and stamped by an Arizona-registered landscaping architect is submitted and approved that meets the applicable landscaping regulations of Article VI, Section 605 of *The Subdivision Ordinance for the Town of Fountain Hills*. *³³
14. Pad Elevation and Building Location Certifications. Prior to the approval of any building stem wall inspection or a pre-slab inspection, whichever occurs first, the property owner or his/her designee shall provide the Town with a certification statement that is prepared, stamped and signed by an Arizona registered land surveyor, that certifies the finished floor elevation(s) and the horizontal location of the building. Pad elevations and building locations must be accurate to 1/10 of a foot as compared to the approved site plan or an amended site plan. The requirements in this subsection may be waived at the discretion of the Town Engineer. *³³

C. Cut and Fill Standards.

1. Importation of Fill Material. Except as exempted in the adopted Uniform Building Code, the importation of fill material to a lot is prohibited unless a grading permit allowing such fill is first secured.
2. Exportation of Excavated Material. Prior to the exportation of any material from a site, a proper location for such material must be identified in order to secure a grading permit to remove such material.
2. Height of Unretained Cut or Fill. If the natural grade or the subdivision finished grade if the property was platted or replatted after September 20, 1991, is less than a fifteen percent (15%) gradient, the maximum amount of unretained fill or cut shall be four (4) feet above/below the natural grade, or subdivision grade if platted after September 20, 1991. Where the natural grade or the subdivision finished grade if the property was platted after September 20, 1991, has a gradient of fifteen percent (15%) or more, the maximum amount of unretained fill or cut shall be six (6) feet above/below the natural grade or the subdivision finished grade if the property was platted after September 20, 1991. Any fill or cut grading in excess of these amounts must be contained by retaining walls. *⁴

The Zoning Ordinance for the Town of Fountain Hills

4. Limitations on Cut and Fill. The height of any fill or the depth of any cut area, as measured from natural grade shall not be greater than ten (10) feet regardless of whether the fill or cut is retained, unretained, or a combination thereof. The total combined height of any fill or the depth of any cut area as a result of subdivision improvement grading and/or any subsequent grading, including but not limited to grading approved as a part of building permit approval, shall not total more than ten (10) feet, as measured from natural grade. These limitations may be waived by the Town Council. *¹⁰, *¹²

In addition to the foregoing, in single-family residential zoning districts, an area not to exceed five percent (5%) of the footprint of the main structure on the lot will be exempt from cut and fill limitations if the exempted area is completely concealed beneath the footprint of the main structure. The footprint shall be defined as any portion of the main structure under roof. All separate small areas beneath the main structure shall be aggregated into one computation not to exceed the five percent (5%) exemption. Any exterior wall or retaining wall adjacent to the exempted cut or fill area shall conform to the height limitation of the zoning district. No exemption from the maximum ten (10) foot limitation will be allowed in any zoning district for cut or fill areas located in any setback, yard or non-disturbance area, and no exemption can be used to obtain greater building or wall height than allowed in the zoning district. No exemptions from the maximum ten (10) foot limitation shall be allowed for accessory structures or guest house structures. No grading for cut or fill shall alter the natural drainage pattern and water volume exiting the property as determined and approved by the Town Engineer.

5. Maximum Slope of Fill Grading. Any unretained fill slope, if allowed, shall have a minimum two (2) feet horizontal to every one (1) foot vertical fill.
6. Maximum Slope of Cut Grading. Maximum steepness of exposed cut slopes is dependent on the stability of the material excavated, and shall be as prescribed by the Town Engineer. However, exposed cut slopes adjacent to side and rear property lines may be no steeper than three (3) feet horizontal for every one (1) foot vertical.
7. Blending of Fill Grading. Fill grading shall have an irregular and contoured edge that blends into the natural surrounding terrain.
8. Restoration of Graded Surfaces. *³⁵
 - a. Vegetation shall be reestablished on all exposed fill slopes, cut slopes, utility lines, driveway(s), and graded surfaces, except for cosmetic landscaping abutting buildings in accordance with the standards established in Article IV of the *Subdivision Ordinance of the Town of Fountain Hills*. Newly exposed rock faces shall be stained.

The Zoning Ordinance for the Town of Fountain Hills

b. This revegetation process shall be completed prior to the issuance of a final certificate, unless a specific exemption is granted by the Community Development Director. Grading and other improvements for drainage and erosion control purposes shall also be completed and revegetated/landscaped prior to final inspection

9. Stabilization of Slopes. Slope stabilization can be required if necessary as set forth in Chapter 70 of the Uniform Building Code.
10. Pre-Existing Grading. A grading or building permit shall not be conditioned on altering, modifying or not utilizing existing grading, if the existing grading work was completed in conformance with valid permits, and does not present a threat or danger to the proposed development or neighboring properties. This provision does not prevent the Town Engineer from requiring necessary documentation of site suitability to assure soil stability, compaction, and other geotechnical purposes.
11. Dust Control. During all grading, and until revegetation or site restoration is completed, dust should be minimized by application of approved dust control methods.

D. Drainage.

1. Maintenance of Continuity. The entrance and exit points and continuity of all natural drainage channels on a lot or parcel shall be preserved. Ponding of water shall not be permitted above cut or fill slopes. Building sites must be designed to carry surface waters away from buildings and retaining walls.
2. Erosion Prevention. Erosion controls should be constructed and maintained to prevent erosion of all slopes and graded areas. Surface drainage interceptors may be provided at the top of all cut and fill slopes where surface runoff will create erosion problems. Sub-surface drainage facilities may be required for stability and protection of affected areas due to ground water seepage.
3. Swale Grading. The minimum amount of swale grading necessary for drainage purposes is not subject to the restoration procedures of paragraph C.8. of this Section.

E. Retaining Walls. *⁵

1. Measurement of Height. The height of a retaining wall is measured from the low side of the natural grade or the subdivision finished grade (if the property was platted after September 20, 1991), to the top of the wall, whether or not the top is retaining earth. Freestanding fences with at least fifty (50) percent openness on top of retaining walls are not included in retaining wall height restrictions but are restricted by the fence height regulations (Section 5.09. A and B). Any freestanding fence with less than fifty percent (50%) openness and located on or within a distance less than the average height of the retaining wall shall be included in the retaining wall height. If the face of a building is within fifteen (15) feet of a retaining wall, the height of the retaining wall shall be included in the building height calculation and the combination of the retaining wall height and the building height shall not exceed the maximum building height limitation.

The Zoning Ordinance for the Town of Fountain Hills

2. Terraced Walls. Any terraced retaining wall and freestanding fence with less than fifty percent (50%) openness within the average height of the highest wall on the same property shall be calculated as one height and be subject to the retaining wall height limitations of Section 5.11.E.4. If two retaining walls, and freestanding fences with fifty percent (50%) or greater openness, are separated by a landscaped terrace of a width at least the height of the highest wall, then each wall and/or fence shall be considered as a separate wall or fence.
3. Determination of Average Height. The average height of a retaining wall shall be computed by taking the total vertical surface of the wall above grade dividing it by its length.
4. Height Limitations. The maximum height and average height of a retaining wall shall not exceed the following:

AVERAGE SLOPE AT WALL LOCATION* -%	0-15	>15
Maximum Height (feet)	8	10
Average Height (feet)	6	7

* As determined by averaging percentage of slopes shown on sections through building or site plan submittal.

- F. Height of Structures at Graded Sites.** The height of all structures shall not exceed the maximum height regulations of the zoning district in which the property is located. The height of a structure shall be measured vertically at any point along that cross section from the finished grade as shown on the approved subdivision grading plans. If there was no grading to the lot or parcel as a result of subdivision improvements, the finished grade shall be the lower elevation as of September 20, 1991 or as shown on the individual grading plans. Grade elevation does not include isolated topographical features, such as pits, hills, rock outcroppings, etc. that are less than 500 square feet in size.

G. Procedural Regulations.

1. Plan of Development. Prior to the issuance of a zoning clearance, a plan of development or grading plan shall be submitted to and approved by the Town Engineering Department, and the Community Development Department. The approval of the plan of development may include reasonable additional requirements as to grading, cut and fill, slope restoration, signs, vehicular ingress and egress, parking, lighting, setbacks of buildings, etc., to the extent that the noted purpose and objectives of this Chapter are maintained and ensured.
2. Application Requirements. In addition to the otherwise noted procedural and information requirements of this provision, all applications for a zoning clearance, subdivision approval, or grading plan approval shall contain the following materials and information:
 - a. Site plan, prepared by an Arizona registered land surveyor or Arizona registered civil engineer with the following information:

The Zoning Ordinance for the Town of Fountain Hills

- (1) A topographic survey at least ten (10) feet beyond the exterior property line of the site.
 - (2) Contour interval not exceeding two (2) feet within twenty (20) feet of any proposed improvement and five (5) foot intervals for the remainder of the lot or parcel.
 - (3) Scale of the site plan shall be not less than 1 inch equals 20 feet. For large scale projects, the Community Development Director may allow a different scale.
 - (4) If structures are proposed, show cross-sections through site and building at 25 foot intervals perpendicular to slope, giving percentage of slope at each, and showing exact heights of structures at each existing contour.
 - (5) If structures are proposed, each floor level shall be shown with different shading with a legend giving grade or elevation of each level.
 - (6) If a garage(s) is proposed, give proposed elevation or grade at garage floor and at existing street level at drive entry. Give percentage of total average slope, and percent and length of single steepest portion of driveway.
 - (7) List the individual square footage of buildings, garages, patios, footprint, disturbance area and, if applicable, pool.
 - (8) Dot in all disturbed (or graded) areas and show the proposed method of final treatment. Indicate all retaining walls, showing the actual and allowable heights.
 - (9) Show how drainage is altered, and if so, how it is redirected to original channel and show that the requirements regarding storm water runoff and drainage have been met.
 - (10) Show location of all proposed utility lines.
 - (11) Give legal description, property dimensions and heading, along with the name, address, and telephone number of submitter.
- b. Elevations, to be submitted if structures are proposed.
- (1) Show all exterior elevations, giving accurate existing and proposed grades lines (Scale 1/4" - 1'0")
 - (2) Show total height of buildings and give height and square footage of all retaining walls.
4. Special Use Permit. A special use permit shall be required for any person, firm, or corporation to undertake clearing or any work regulated by Chapter 70 of the

The Zoning Ordinance for the Town of Fountain Hills

Uniform Building Code when not in accordance with a Plan of Development as determined by the Community Development Director.

(Ord. 02-16, Amended, 12/18/2002; Ord. 02-15, Amended, 10/16/2002, 5.11.C.4 Additional Verbiage Added; 00-10, Amended, 11/17/2000; 00-13, Amended, 11/17/2000; 00-11, Amended, 11/17/2000; Manual, Amended, 03/03/2000)

Section 5.12 Outdoor Storage and Junk Automobiles.

A. Definitions.

1. "Outdoor Storage": The location of any goods, wares, merchandise, commodities, junk, debris, or any other item outside of a completely enclosed building for a continuous period longer than twenty-four (24) hours.
2. "Junk Automobile": Any vehicle missing one or more body parts; or is incapable of operating under its own power; or is missing any wheels; or has missing or severely shattered glass which prohibits safe operation; or has one or more flat tires for a period of seventy-two (72) or more hours.

B. Outdoor Storage. With the exception of retail sales displays in an approved commercial area, outdoor storage shall be screened from public view by a six-foot-high solid masonry fence or a fence or screening of a height and material as allowed or required by the Planning and Zoning Commission. The presence of hazardous materials not to be used on-site is prohibited.

C. Junk Automobiles. In the Open Space Recreational and Residential zoning districts, junk automobiles shall be stored in a completely enclosed building. In commercial and industrial zoning districts, junk automobiles shall be stored in an enclosed building or in an area that is screened from neighboring properties and public view.

D. Existing Outdoor Storage and Junk Automobiles. All outdoor storage and junk automobiles existing at the time of the passage of this ordinance shall, within thirty (30) days of its passage, be made to comply fully with these requirements or be removed.

E. Prohibited Dumping. The use of land for the dumping or disposal of scrap metal, junk, garbage, rubbish, refuse, ashes, slag, or industrial wastes or by-products, shall be prohibited in every district except as otherwise provided in Chapter 13.

F. Vending Machines. Up to three (3) vending machines placed outdoors on one property is permitted. Permission to maintain in excess of three (3) vending machines outdoors on one property shall be by special use permit.

Section 5.13 Storage and Parking of Mobile Homes, Boats, Aircraft, Truck Campers, Camping Trailers, Travel Trailers, and Other Trailers.

A. Storage. Motor homes, travel trailers, camping trailers, other trailers, boats or utility trailers, shall only be stored, parked, or located in any zoning district in the following ways:

1. Such vehicles must be non-commercial if located in any residential zoning district.

The Zoning Ordinance for the Town of Fountain Hills

2. Such vehicles must be located behind the rear of the principal building. If such location is not feasible, the Community Development Director may issue an Administrative Use Permit to park or store such a vehicle to the side of the principal building and behind the front line of the principal building. No such vehicle may be located on a residentially zoned lot or parcel of land that does not have a residential structure. In planned unit development projects, approved screened storage yards may be allowed; however, occupancy of any vehicle in the storage yard is prohibited.
3. Such vehicles must be behind a six (6) foot high solid masonry, concrete or earthen product wall. Further, any access gates shall be constructed of view-obscuring materials to provide effective site screening. Approval of the alternative screening methods not listed above shall be by the Council. *¹⁹
4. Motor homes, travel trailers, camping trailers, other trailers, and boats, shall not be located in that portion of a lot that is in front of the primary structure, at anytime for more than two (2) consecutive days.

B. Construction Office or Security Personnel Housing. A mobile home, motor home, truck camper, or trailer may be allowed, by an administrative use permit, in any zone to conduct business or provide housing for security personnel, during the construction of a permanent building when a valid building permit is in effect. Such a mobile home or trailer shall be removed immediately upon the stoppage of construction.

C. Placement of Occupied Mobile Homes, Motor Homes, Truck Campers, Camping Trailers, Travel Trailers, and Other Trailers. Mobile homes shall be located only in approved mobile home parks or subdivisions approved for mobile homes. Except as otherwise provided in this section, motor homes, camping trailers, truck campers, and travel trailers that are occupied or used for living, sleeping, or housekeeping purposes may be located only in recreational vehicle parks or recreational vehicle subdivisions. Aircraft and boats may not be used for living or housekeeping purposes.

D. Unoccupied Aircraft. Unoccupied aircraft may only be located in an industrial area and must be located in an area screened from public view.

E. Temporary Sales Offices for Subdivisions. After obtaining a temporary use permit and a building permit for a model home, a mobile home may be used for a temporary real estate sales office with a temporary use permit and with the following stipulations:
*¹¹

1. An all-weather access route approved by the Fountain Hills Fire District and Town Engineer is provided.
2. A delineated parking area is established for customer and sales personnel vehicles that is clearly away from construction activity and traffic. There must be an off-street parking stall for each person stationed at the mobile home, plus two spaces.
3. The mobile home must provide indoor rest room facilities to all patrons.
4. The mobile home must be removed from the site prior to the opening of the model home.

The Zoning Ordinance for the Town of Fountain Hills

5. On-site sales personnel must be present at least five (5) days a week during normal business hours. In no case shall a model home be open before 7:00 A.M. or after 9:00 P.M.
6. The sales office shall only be for the purpose of marketing the tract subdivision within which it is located with the given product line.
7. The mobile home temporary use permit shall not be for more than 120 days.
8. The mobile home shall be skirted with material similar to the siding of the mobile home.
9. There shall be a landscaped area at least equivalent to the square footage of mobile home. Landscaping shall consist of at least one five gallon plant for each ten lineal feet of the longest side of the mobile home. *²⁵

Section 5.14 Home Occupations.

Home occupations shall be permitted in any residential zone, subject to the following requirements:

- A. **Home Occupations** shall be clearly incidental and subordinate to the use of the property and dwelling unit for dwelling purposes, shall be conducted entirely within the dwelling or garage, and shall not change the residential character thereof. Carports, accessory buildings, and yards may not be used for home occupations.
- B. **Area.** No more than twenty-five (25) percent of the gross floor area of the dwelling shall be devoted to the home occupation.
- C. **Employees.** There shall be no employees other than members of the immediate family residing in the dwelling unit where the home occupation is being operated.
- D. **Delivery Vehicles.** No business shall be conducted which requires delivery vehicles or other services not customary to a residence.
- E. **Nuisances.** There shall be no external evidence of the activity such as outdoor storage, displays, noise, dust, odors, fumes, vibration, or other nuisances discernible beyond the property lines.
- F. **Signs.** No signs signifying the business or any commercial product or service are allowed. Signs on business vehicles, regardless of their storage, shall not display the address of the home occupation.
- G. **Traffic.** Customer/patron and shipping/receiving trip generation shall not exceed five (5) trips a day.
- H. **Exception.** An exception to these requirements shall be made for the operation of a group home for the handicapped and adult care, day care centers, home day care centers, and model homes.

The Zoning Ordinance for the Town of Fountain Hills

- I. Hazardous Materials.** Any home occupation desiring to use hazardous materials, as defined in this ordinance, must first secure a special use permit. No home occupation may use hazardous material without a special use permit. Special use permits for the use of hazardous materials will only be issued after the Town and Fire District are assured that proper handling, storage, and disposal safeguards can and will be followed for the health, safety and welfare of the neighborhood and community.
- J. Uses Not Permitted.** The following uses that are not permitted as a home occupation include, but are not necessarily limited to, the following: The physical sale or distribution of commodities on the premises and motor vehicle repair. The Community Development Director or his designee shall render decisions on home occupations permitted with appeal to the Town Council.

(Manual, Amended, 03/03/2000)

Section 5.15 Animals and Pets.

- A. Household Pets.** Except as otherwise permitted in this ordinance, the keeping of animals in connection with each dwelling shall not exceed a total of four (4) household pets, with no more than one litter up to six (6) weeks of age.
- B. Indoor Pets.** The provisions of this section shall not apply to birds, fish and other pets which at all times are kept within a fully enclosed building or accessory building, and which do not create odor or sound which is detectable on an adjoining lot.
- C. Non-household Animals.** Animals other than household pets shall be allowed in OSR, R-190, R1-43, R1-35H and R1-35 zoning districts as follows:
 - 1. Horses: One (1) animal for every twenty thousand (20,000) square feet of area.
 - 2. Hogs and pigs are not allowed.
 - 3. All non-household animals shall not be kept within fifty (50) feet of an occupied structure unless the said occupied structure is occupied by the owner or person in control of the said animal.

Section 5.16 Temporary Carnivals, Circuses, Revivals, Rodeos, Swap Meets, Outdoor Retail Sales and Similar Activities.

Temporary Carnivals, Circuses, Revivals, Rodeos, Swap Meets, Outdoor Retail Sales and Similar Activities.

- A. Applicability.** The provisions of this Section do not apply to garage sales or rummage sales. All other temporary carnivals, circuses, revivals, rodeos, swap meets, outdoor sales, and similar activities may be permitted only in OSR, Commercial and Industrial Zone Districts subject to the restrictions of Subsection B of this Section.
- B. Temporary Use Permit.** A temporary use permit shall be obtained from the Zoning Administrator in accordance with the following:

The Zoning Ordinance for the Town of Fountain Hills

1. The Zoning Administrator shall ensure that health and safety are considered, and shall obtain the approval of the Maricopa County Health Department, the Fire Department, and the Town Marshal's Office prior to issuing the temporary use permit.
2. The Zoning Administrator shall ensure that land area is adequate for the proposed use and consequent parking, and shall ensure that traffic safety is considered.
 - a. Submit a site plan, to scale, showing the proposed locations of temporary structures and activities and identify the available parking areas.
 - b. All parking areas must be paved or have an approved method of dust control from the Town Engineer.
 - c. If the proposed temporary use location is within an existing parking area the number of parking spaces shall not be reduced more than ten percent of the total spaces existing unless otherwise approved by Council.
3. The Zoning Administrator shall require any measures necessary to protect surrounding property.
4. A time limit shall be established for each use conducted under the temporary use permit. Unless otherwise approved by the Town Council, the time limit shall not exceed seven (7) consecutive days, nor shall there be more than four (4) temporary use permits issued for the same use during any calendar year. The Town Council may grant permission for the same use to be held more than four (4) times during a calendar year.*²³ Outdoor retail sales and similar uses such as farmers markets, may be permitted under a single temporary use permit subject to the following:
 - a. The recurring event shall not exceed a maximum of fifty (50) days during a calendar year.
 - b. The event permitted under the temporary use permit shall recur within thirty (30) days of the prior event held under such permit; if the period of recurrence is greater than thirty (30) days, a separate temporary use permit shall be obtained for each occurrence.
5. Permanent structures shall not be permitted under a temporary use permit.

(03-08, Amended, 04/03/2003)

Section 5.17 Public Service Facilities.

Special use permit shall be required by all public service companies in order to establish or substantially expand utility buildings, structures, or appurtenances thereto, in any residential zoning district. Extension of public service lines in public or private right-of-way is exempt from these requirements.

Section 5.18 Trash Enclosures.

The Zoning Ordinance for the Town of Fountain Hills

A permanent enclosure for temporary storage of garbage, refuse and other waste materials shall be provided for every use, other than a single-family dwelling or multiple-family developments containing four (4) or less dwelling units. Additional common trash enclosures shall be provided for multiple-family developments having five (5) or more units such that 1/3 cubic yard (9 cubic feet) of disposal capacity is provided per unit, rounding up, and such enclosure(s) shall be located no further than 250 walking feet to the main entrance of the units they are intended to serve. A minimum of one trash enclosure is required for commercial, industrial, and other non-residential or institutional developments. Additional trash enclosures shall be provided at a number and at locations as determined by the Director of Community Development. The enclosure shall be entirely surrounded by screen walls or buildings. Trash enclosures shall comply with the following regulations: *³¹, *³⁶

A. Construction: Trash enclosures shall be so constructed that contents are not visible from a height of five (5) feet above grade from any abutting street and shall be constructed of solid or ornamental pierced masonry walls with solid concrete floor sloped for drainage and maintenance of sanitary conditions. Enclosures shall be of sufficient height to conceal contents, including containers, but in no case shall any enclosure be less than four (4) feet in height above grade. Gates are required and shall be solid or baffled, equal in height to the enclosure and equipped with latches to ensure closure when not in use. Central trash enclosures shall be provided for multiple-family developments having five (5) or more dwelling units, and must be accessed in a forward motion at points of ingress/egress.

B. Location: Trash enclosures shall not be located in any required front or side yard.
(00-16, Amended, 11/17/2000)

Section 5.19 Performance Standards.

Any permitted or special use must conform to the following performance standards. In conjunction with the plan review, the developer-applicant shall provide to the Zoning Administrator information which is sufficient to show that the proposed use and the manner of its conduct will meet the following performance standards:

A. Noise. At no point on the property line shall the sound pressure level of any individual operation exceed the decibel levels in the designated octave bands shown on the following page, (excluding operation of motor vehicles or other transportation facilities).

Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements shall be made using the flat network of the sound level meter. Impulsive type noises shall be subject to the performance standards provided that such noises shall be capable of being accurately measured with such equipment. Noises capable of being so measured, for the purpose of this section, shall be those noises which cause rapid fluctuations of the needle of the sound level meter with a variation of not more than plus or minus two (2) decibels.

The Zoning Ordinance for the Town of Fountain Hills

Maximum sound pressure
cycles per second

Octave band levels in decibels
0.0002 dynes per cm²

	<u>Sunrise to 11:00 PM</u>	<u>11:00 PM to Sunrise</u>
0 to 75	79	72
75 to 150	78	67
150 to 300	73	59
300 to 600	67	52
600 to 1200	61	46
1200 to 2400	55	40
2400 to 4800	50	34
Above 4800	46	32

Special events or occurrences that will exceed the above noise levels may be permitted by a special use permit only.

- B. Smoke.** No emission of smoke from any source shall be permitted to exceed a greater density than that density described as No. 1 on the Ringlemann Chart. However, smoke may be emitted, which is equal to but not darker than No. 2 on the Ringlemann Chart, for not more than four (4) minutes in any thirty (30) minute period. For the purpose of grading the density of smoke, the Ringlemann Chart, as published by the U.S. Bureau of Mines, shall be the standard.
- C. Glare or Heat.** Any activity producing intense glare or heat shall be performed within a completely enclosed building in such a manner as not to create a nuisance or hazard along lot lines.
- D. Vibration.** No vibration shall be permitted which is discernible beyond the lot line to the human sense of feeling for three (3) minutes or more duration in any one hour of the day between the hours of 7:00 a.m. to 7:00 p.m., or of thirty (30) seconds or more duration in any one hour during the hours of 7:00 p.m. and 7:00 a.m.
- E. Fly Ash, Dust, Fumes, Vapors, Gases and Other Forms of Air Pollution.** No emission shall be permitted which can cause damage to health, to animals, or vegetation, or other forms of property, or which can cause any excessive soiling.
- F. Liquids and Solid Waste.** No wastes shall be discharged in the public sewerage system which endanger the normal operation of the public sewerage system.
- G. Odors.** No emission of odorous gases or other odorous matter shall be permitted in such quantities as to be offensive in such a manner as to create a nuisance or hazard beyond the property lines.

Section 5.20 Recreational Vehicle Parks.

- A. Special Use Permit.** Recreation vehicle (RV) parks shall be allowed only within the zoning districts which specifically allows this use, and shall require a special use permit issued by the Town Council in accordance with Section 2.02 of this Ordinance.

The Zoning Ordinance for the Town of Fountain Hills

- B. Staff Review.** RV Parks shall require approval by the staff in accordance with the provisions of Section 2.04 of this Ordinance. The staff shall ensure adequate provision of streets, driveways, walkways, proper layout of the park, proper sanitary facilities, adequate fire protection, adequate protection of surrounding properties, adequate water supply, and compliance with the provisions of this ordinance and codes of the Town of Fountain Hills.
- C. Site Specifications:**
1. Sites must be clearly defined, well-drained, and reasonably level.
 2. Each recreational vehicle site must be no less than one thousand two hundred (1200) square feet in area, and shall be designed to allow a minimum of fifteen (15) feet between adjoining recreational vehicles.
- D. Office and Registration Facilities.** Each campground must provide an adequate and easily identifiable office or registration area. Registration facilities must be located so as not to interfere with the normal flow of traffic into and out of the RV Park.
- E. Rest Room Facilities.** Each RV Park must have the following rest room facilities as a minimum:
1. One toilet for each twenty-five (25) sites, or fraction thereof. There shall be a minimum of one toilet provided for each men's and women's rest room regardless of number of campsites. Urinals may be provided for fifty (50) percent of the toilet requirement of the men's rest room. Toilets shall be partitioned for occupant privacy.
 2. One hot water shower shall be provided for each twenty-five (25) sites or fraction thereof. There shall be a minimum of one shower for each men's and women's rest room regardless of the number of campsites. Showers shall be partitioned for occupant privacy.
 3. One sink with hot water shall be provided for each twenty-five (25) sites or fraction thereof. There shall be a minimum of one sink for each men's and women's rest room regardless of the number of campsites.
 4. Each rest room shall contain shelf space and/or hooks adequate for toilet articles and towels, a good well-lighted mirror directly above each sink, an electric outlet convenient to the sink, ample general illumination, wastebaskets, and windows and doors designed for complete privacy.
- F. Maintenance.** RV Parks must be well maintained in all areas. This includes the grounds, rest room facilities, buildings and any recreational areas and equipment. *¹³

Section 5.21 Temporary Construction Equipment and Storage Yards for Construction Activity in Public Rights-of-Way and Easements

Construction equipment and material storage for projects in public rights-of-way and easements may be allowed in any zoning district, except the Open Space Recreational Zoning District, with

The Zoning Ordinance for the Town of Fountain Hills

a temporary use permit. At a minimum, the following regulations are placed upon any such a use:

- A.** No outdoor lighting shall be permitted in residentially zoned areas. Any outdoor lighting in commercial or industrial zoned areas shall be placed so as to reflect light away from any adjoining residential uses.
- B.** The construction equipment and storage yards shall be enclosed by a fence at least six feet and not more than eight feet in height to provide effective site screening from adjoining properties, uses or streets by the use of fencing materials that obscures at least ninety-five percent of wall plane of the fence.
- C.** The fence shall not encroach into the required front yard or street side yard areas of the lot or parcel.
- D.** There shall be no automobile parking, equipment parking, or material storage outside of the fenced area.
- E.** All employee parking shall be within the approved fenced construction equipment and storage yard.
- F.** All uses shall be maintained in such a manner that they are neither obnoxious nor offensive by reason of emission of odor, dust, smoke, gas, noise, vibration, electromagnetic disturbance, radiation or other similar causes detrimental to the public health, safety or general welfare.
- G.** The storage yard must be surfaced with a dust free material approved by the Town Engineer.
- H.** All activities in the construction equipment and storage yard shall conform to the time limitations specified in Article 7-6 of the Town Code.
- I.** Only the areas which have a slope of less than fifteen percent (15%) and the percentage of the aggregate area with a slope of fifteen percent (15%) or greater that does not exceed the maximum lot coverage allowance as prescribed in the respective primary zoning district may be disturbed.
- J.** No site may be permitted for more than six (6) months.
- K.** Vegetation shall be reestablished on all exposed fill slopes, cut slopes, and graded surfaces by means of a mixture of grasses, shrubs, trees or cacti to provide a basic ground cover which will prevent erosion and permit natural revegetation upon removal of the construction equipment and storage yard activity. Revegetation plans must be submitted to and approved by the Town of Fountain Hills prior to the granting of the temporary use permit. Revegetation of cut and fill slopes shall be done in such fashion as to restore those graded slopes to an appearance approximating, as closely as possible, their natural state. Indigenous plant materials or low water usage shrubs, trees and grasses must be used.

The Zoning Ordinance for the Town of Fountain Hills

Date of Revisions/Additions - Chapter 5

- *¹ Revised 03/02/95
- *² Revised 03/02/95
- *³ Revised 03/02/95
- *⁴ Revised 03/02/95
- *⁵ Revised 03/02/95
- *⁶ Revised 03/02/95
- *⁷ Revised 08/03/95
- *⁸ Revised 08/03/95
- *⁹ Revised 08/03/95
- *¹⁰ Revised 08/03/95
- *¹¹ Revised 10/05/95
- *¹² Revised 03/07/96
- *¹³ Revised 09/19/96
- *¹⁴ Revised 10/17/96
- *¹⁵ Revised 11/21/96
- *¹⁶ Revised 04/17/97
- *¹⁷ Revised 06/05/97
- *¹⁸ Revised 06/05/97
- *¹⁹ Revised 09/04/97
- *²⁰ Revised 11/20/97
- *²¹ Revised 12/18/97
- *²² Revised 02/19/98
- *²³ Revised 05/07/98

The Zoning Ordinance for the Town of Fountain Hills

*²⁴ Revised 07/02/98